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April 12, 2023

VIA ECF

The Honorable Lorna G. Schofield
U.S. District Judge
United States District Court
Southern District of New York
40 Foley Square, Courtroom 1106
New York, New York 10007

Re: *Adrian Jules v. Andre Balazs Properties, Andre Tomes Balazs, Balazs Investors, LLC, Hotels A.B., LLC*
Case No. 1:20-cv-10500-LGS

Dear Judge Schofield:

This Firm has appeared as an interested party in connection with this matter. On March 13, 2023, the Court Ordered that “by March 24, 2023, Defendants shall file their motion to confirm the Final Award. Any memorandum of law filed in support of the motion shall not exceed fifteen pages. By April 14, 2023, Plaintiff and Mr. Farinella may each file any motion to vacate the arbitral award and opposition to Defendants’ motion. Any memorandum of law in support of their motion and in opposition to Defendants’ motion shall not exceed fifteen pages. By April 28, 2023, if Plaintiff or Mr. Farinella files such a motion, Defendants may file any opposition to Plaintiff and Mr. Farinella’s motions and reply in support of their motion to confirm, not to exceed six pages in total. By May 12, 2023, Plaintiff and Mr. Farinella may each file a reply in support of their motions to vacate, not to exceed six pages. No further extensions will be granted on these deadlines.”

The Court ordered briefing schedule makes it clear that there will be no further “extensions will be granted on these deadlines.” I respectfully ask the Court to consider resetting the April 14, 2023, deadline to April 17, 2023, which is the statutorily prescribed deadline set by the Federal Arbitration Act (“FAA”). The FAA provides that a motion to vacate or modify the arbitration award must be made within three (3) months or ninety (90) days from when the decision is filed or delivered. 9 U.S.C. § 12. Court in this Circuit have held that, “under the FAA, a notice of motion to vacate an arbitration award must be served within three (3) months after the award is filed or delivered. *id.* The statute affords “no exception” to this service period and thus “a party may not raise a motion to vacate, modify, or correct an arbitration award after the three month period has run, even when raised as a defense to a motion to confirm.” *Florasynth, Inc. v. Pickholz*, 750 F.2d 171, 175 (2d Cir. 1984). This is the first request for an extension of time.

In this case the Arbitrator's Award is dated January 17, 2023, and the three (3) month or the ninety (90) day statutory time period to file a motion to vacate or modify is on or before April 17, 2023, and the 100-day period prescribed by California law would be April 27, 2023. It should also be noted that on March 13, 2023, the Defendant sent a letter to the Court indicating the interested party would be moving to vacate or modify the award pursuant to Cal. Code Civ. Proc. 1288 and 9 U.S.C. § 12. The Cal. Code Civ. Proc. 1288 states, "A petition to vacate an award or to correct an award shall be served and filed not later than 100 days after the date of the service of a signed copy of the award on the petitioner." The Arbitrator's Award was issued pursuant to California law in accordance with the Cal. Code Civ. Proc. and the interested maintains that the 100-day period is applicable in this case. If the Court is not in agreement with the interested party's position that the 100-day period is applicable I would respectfully ask the Court to note the interested party's objection.

I am respectfully requesting a short extension of the time the Court ordered to file a motion to vacate and opposition to the motion to confirm as good cause exists. An extension of the time would be in accordance with the statutory deadline prescribed by California law and/or the FAA. Additionally, as extension of time would better enable the preparation of a response that would be most helpful to the Court and it would be in accordance with the interested party's due process rights as prescribe by California law and the FAA. The Defendant will not be prejudiced because California law gives the Defendant four (4) years to have the award confirmed and the FAA provides a motion to confirm must be filed within one (1) year of the award.

Additionally, in accordance with the Court's rules I am respectfully requesting leave to file an oversized brief in the above-captioned case. As the basis for this motion, the interested party provides to this Court that the complexity and gravamen of the issues presented are of great consequence. There are also novel issues that this case presents which require in depth legal analysis.

Thank you for considering Plaintiff's request.

Respectfully submitted,

Dated: April 12, 2023
New York, New York

Law Office of Thomas A. Farinella, PC

By: /s/Thomas A. Farinella
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